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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of

Amendment of Section 73.202(b),
Table of FM Allotments
(Portland and Seaside, Oregon)

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MM Docket No. 96-212
RM-8884

Federal Communications Commission
Office of Secretary

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To: Chief, Allocations Branch

COMMENTS

Radio Systems of Miami, Inc. ("RSMI"),^{1/} licensee of Radio Station KUPL-FM, Channel 253C, Portland, Oregon, by its attorneys, hereby states its continuing interest in, and submits comments supporting, the Commission's proposal to substitute Channel 254C1 for Channel 253C at Portland, Oregon, to modify the license of KUPL-FM to specify operation on Channel 254C1, and to substitute either Channel 235A or 272A for Channel 255A, Seaside, Oregon. See Notice of Proposed Rulemaking and Order to Show Cause in MM Docket 96-212, DA 96-1698 (rel. Oct. 18, 1996) ("Notice"). RSMI restates its intention to apply for Channel 254C1 if it is allotted to Portland, and RSMI will construct any authorized facility promptly.

1. Allotting Channel 254C1 to Portland Will Benefit the Public Interest

Granting the proposed channel change in Portland would benefit the public interest because it would permit KUPL-FM to improve its service to its community of license and the public while causing no detriment to any existing station. KUPL-FM currently operates on Channel 253C from

^{1/} RSMI is a wholly owned subsidiary of ARS Acquisition II, Inc. which is, in turn, a wholly owned subsidiary of American Radio Systems Corporation.

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a site 12.75 km (7.92 miles) west of Portland. From this site, KUPL-FM's signal experiences serious terrain-induced shading to Portland, its community of license. As a result, KUPL-FM must use an FM translator -- Station K251AD, Beaverton, Oregon -- to provide a consistent signal to some areas of Portland within its 3.16 mV/m principal community contour.

By amending the Table of Allotments to permit KUPL-FM to operate on Channel 254C1, KUPL-FM could seek Commission authorization to relocate its transmitter to the KOIN-TV tower in downtown Portland.^{2/} From this site, KUPL-FM could upgrade its service and provide a more consistent signal to the residents of Portland, its community of license. Changing KUPL-FM's channel to 254C1 also would obviate the need for the FM Translator KUPL-FM currently uses, thereby allowing more efficient use of the spectrum. Additionally, KUPL-FM eventually plans to operate from the KOIN-TV tower with a master panel antenna that multiplexes the signal of three other stations owned by RSMI's parent corporation. Applications to modify the facilities of these stations (KKJZ(FM), KUFO(FM), and KBBT-FM) were filed on December 6, 1996. Granting the proposed channel change would significantly facilitate the development and implementation of this multiplexing arrangement.

Changing KUPL-FM's channel to 254C1 will not affect adversely any existing station. Operating on Channel 254C1, KUPL-FM would be short-spaced to Channel 255A, Seaside, Oregon -- an allotment with an unbuilt construction permit held by Ken's Corporation for radio station KULU(FM). The Commission recently reinstated that permit.^{3/} In its request for

^{2/} KUPL-FM is prohibited from relocating to the KOIN-TV tower on its present channel due to an IF frequency short-spacing.

^{3/} KUPL-FM, however, would otherwise be fully-spaced on Channel 254C1.

reinstatement, Ken's Corporation, the permittee of KULU(FM) indicated that it had made significant progress toward completion of construction. Station KULU(FM), however, has not begun broadcasting on Channel 255. Thus, changing the channel of operation will not cause confusion among potential KULU(FM) listeners or result in any loss of service. And, as the Commission observed in the Notice, both Channel 235A and 272A can be allotted to Seaside at the transmitter site KULU(FM) is constructing under its present construction permit.

RSMI states its intention to reimburse Ken's Corporation, in accordance with Circleville, Ohio, 8 FCC 2d 159 (1967) and its progeny, for any reasonable costs that Ken's Corporation may incur in implementing its channel change, assuming the Commission grants the requested reallocations.

2. Canadian Concurrence

In order to comply with certain treaty obligations of the United States, the Commission requires that Canadian concurrence be obtained for any proposed allotment located in communities within 320 kilometers of the United States-Canada border. Recognizing that Canadian concurrence can be a lengthy process, RSMI respectfully asks that the Commission seek concurrence at the soonest practicable date in this proceeding. Hastening the concurrence process will benefit both KUPL-FM and KULU(FM). With respect to KUPL-FM, hastening the process would facilitate KUPL-FM's ability to construct and initiate operation from its planned four-station multiplexing operation. Hastening the concurrence process also would minimize the delay in putting KULU(FM) on the air for the first time on its new channel.

CONCLUSION

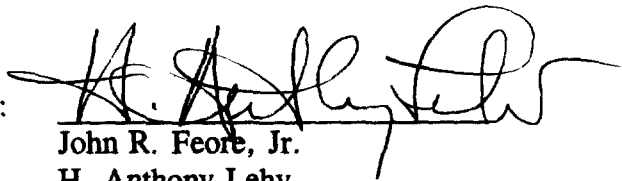
Substituting Channel 254C1 for KUPL-FM's current Channel 253C and substituting Channel 272A or 235A for the construction permit held by KULU(FM) on Channel 255A in Seaside will serve the public interest. KUPL-FM will be able to provide better coverage to existing listeners; to cease using an FM Translator, which will result in a more efficient use of the broadcast spectrum; and to multiplex its operation with three other commonly-owned stations.

RSMI certifies that upon grant of the requested amendment of the Table of Allotments, it will reimburse KULU(FM) for all reasonable costs KULU(FM) may incur in implementing its channel change. RSMI also certifies that upon grant of the channel substitution, it will promptly submit an application for a construction permit to implement the transmitter relocation and will complete construction under such a permit in the most expeditious manner possible.

Respectfully Submitted,

RADIO SYSTEMS OF MIAMI, INC.

By:



John R. Feore, Jr.
H. Anthony Lehv

Its Attorneys

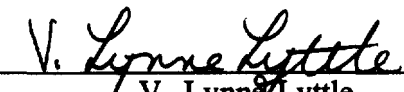
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December 9, 1996

CERTIFICATE OF SERVICE

I, V. Lynne Lyttle, a secretary at Dow, Lohnes & Albertson, do hereby certify that on this 9th day of December 1996, a copy of the foregoing Comments was sent via hand delivery to:

Michael S. Ray Esquire
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V. Lynne Lyttle